REMARKS

I. Applicant Initiated Telephone Interview with Examiner

Applicant's Representative, Matthew Lambrinos, conducted an Applicant Initiated Interview on October 6, 2008 with the Examiner, Saeed Usmaan, and the Examiner's supervisor, Hosain Alam, to discuss the non-final Office Action, and in particular, the Examiner's interpretation of Wilkerson.

By way of introduction, Matthew Lambrinos explained the claimed subject matter to Hosain Alam. Applicant once again argued that, contrary to the Examiner's assertions, Wilkerson did not teach a system that automatically recovered desired data for display within said command line interface, if said desired data is inadvertently deleted utilizing said command line of said command line interface. Matthew Lambrinos asserted that Wilkerson merely teaches that the user of the system is required to confirm deletion via a secondary panel prior to actual deletion.

Matthew Lambrinos referred to FIG. 5 of the present application and further submitted that Wilkerson does not teach the method in the data processing system includes testing to determine if said desired data has been deleted from said command line of said command line interface. Instead, Wilkerson teaches that the user identifies a corrupted database and enters the database name and estimated time stamp into the computer.

Matthew Lambrinos proposed to amend the claims to incorporate in the method, testing to determine if said desired data has been deleted from said command line of said command line interface.

Hosain Alam and Matthew Lambrinos also agreed to amend the claims further to clarify the elements of the data processing system including the command line interface as described in page 2 of the description.

Examiner acknowledged that, subject to this agreed amendment further defining the data processing system, Wilkerson did not disclose or teach a method in a data processing system including testing to determine if said desired data has been deleted from said command line of said command line interface.

II. Claim Amendments

Claim 1 has been amended along the lines discussed in the Applicant Initiated Interview with the Examiner on October 6, 2008. The claims has been amended to recite that the data-processing system has a central processing unit coupled to an operating system, memory coupled to said central processing unit, and a command line interface to said operating system in which a user responds to a visual prompt by typing in a command on a specified line and receives a response back from the system. Support for this amendment can be found in the application as originally filed, in particular, in paragraphs [0019] and [0020] of the description in conjunction with FIG. 1 and lines 1 to 5 of paragraph [0024].

Furthermore, the claim has been amended to reflect the method of FIG. 5 of the present application. In particular, the claim has been amended further to recite that the method in the data processing system includes utilizing said command line interface to interact with said operating system, and testing to determine if said desired data has been deleted from said command line of said command line interface.

Also, the claim 1 has been yet further amended to recite that the method in the data processing includes: if said desired data has been deleted from said command line of said command line interface, automatically recovering said desired data from said memory of said data-processing system for display within said command line interface. Support for this amendment can be found in paragraphs [0036] and [0037] of the description in conjunction with FIG. 5. Reference to "if said desired data is inadvertently deleted utilizing said command line of said command line interface" has been deleted.

Corresponding amendments have been made to claim 12. Consequential amendments have been made to the dependent claims and claims 18-22 have been deleted.

III. Claim Rejections -35 USC 101

Claims 18-22 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. The Examiner asserted that language of the claims raises a question as to whether the claims are directed merely to an environment or machine which would result in a practical application producing a concrete useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. Examiner asserted that these claims are rejected because the applicant does not describe the computer usable data carrier as being tangible medium. Computer readable mediums include both tangible mediums (storage mediums) and non-tangible mediums (carrier waves and transmission media). Appropriate correction is required.

Applicant has cancelled claims 18-22. Applicant respectfully requests that the rejection to claims 18-22 under 35 U.S.C. 101 as being directed to non-statutory subject matter be withdrawn.

IV. Claim Rejections Under 35 U.S.C. §103

Requirements for Prima Facie Obviousness

The obligation of the examiner to go forward and produce reasoning and evidence in support of obviousness is clearly defined at M.P.E.P. §2142:

"The examiner bears the initial burden of factually supporting any primafacie conclusion of obviousness. If the examiner does not produce a primafacie case, the applicant is under no obligation to submit evidence of

nonobviousness."

The U.S. Supreme Court ruling of April 30, 2007 (KSR Int'l v. Teleflex Inc.) states:

"The TSM test captures a helpful insight: A patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art. Although common sense directs caution as to a patent application claiming as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the art to combine the elements as the new invention does."

"To facilitate review, this analysis should be made explicit."

The U.S. Supreme Court ruling states that it is important to identify a reason that would have prompted a person to combine the elements and to make that analysis explicit. MPEP §2143 sets out the further basic criteria to establish a prima facie case of obviousness:

1. a reasonable expectation of success; and
2. the teaching or suggestion of all the claim limitations by the prior art reference (or references when combined).

It follows that in the absence of such a prima facie showing of obviousness by the Examiner (assuming there are no objections or other grounds for rejection) and of a prima facie showing by the Examiner of a reason to combine the references, an applicant is entitled to grant of a patent. Thus, in order to support an obviousness rejection, the Examiner is obliged to produce evidence compelling a conclusion that the basic criterion has been met.

Wilkerson in view of Davis

Claims 1-8, and 12-22 rejected under 35 U.S.C. 103(a) as being unpatentable over USP, 5,778,387, Wilkerson et al. (Wilkerson hereinafter) in view of USP 6,615,224, Lewis B. Davis (Davis hereinafter).

Regarding claim 1, Examiner asserted that WILKERSON teaches method in a data-processing system for recovering data (see Fig. 3, WILKERSON), comprising:

identifying desired data from a command line interface displayable (Fig. 55, Wilkerson) within a display area of a data-processing system (see col. 11, lines 34-41, Wilkerson);

automatically saving said desired data in a memory location of said data-processing system, in response to identifying said desired data from said command line interface (see col. 12, lines 16-24, Figs. 3-8 Wilkerson); and

automatically recovering said data from said memory location of said data-processing system for display within said command line interface, if said desired data is inadvertently deleted utilizing command line of said command line interface (see col. 19, lines 50-56, Fig. 32, Claim 1, Wilkerson).

Examiner asserted that Wilkerson teaches the elements of claim 1 as noted above but does not explicitly disclose "deleting said desired data utilizing said command line of said command line interface." Examiner asserted that Davis discloses "deleting said desired data utilizing said command line of said command line interface" as a method for deleting files on a UNIX file system, so that they may subsequently be undeleted, without any possibility of loss or damage. Examiner asserted that a file deleted with the "rm" command, or targeted by the "cp" or "my" commands, is deleted simply by marking its directory record "deleted", while its mode and data blocks are not freed. Examiner asserted that the "Is" command is adjusted so as not to display files whose directory records are marked as deleted. Examiner asserted that an indexed system of deleted-file records of such deleted

files is maintained by the UNIX kernel, such that a record for each deleted file contains a pointer to the file's mode, a pointer to the file's directory mode, and the file's deletion time. Examiner asserted that a deleted file may be undeleted simply by calling an "unrm <file>;" command, which uses a kernel system call to undo "deleted" mark in the file's directory record. Examiner asserted that this procedure restores the file completely, because its mode and data blocks were never freed. Examiner asserted that the "Is" command again will display the file. Examiner asserted that the indexed system of deleted-file records, created over time as files are deleted from the UNIX file system, is a necessary tool used by the kernel to efficiently remove the oldest deleted files from the system automatically, without excess system overhead, and without cumbersome system maintenance procedures required from the system administrator (Davis Abstract).

Examiner asserted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of the cited references because Davis's teaching would have allowed Wilkerson to provide a method of file protection on UNIX platforms during file deletion processes, whereby no system performance is sacrificed and to enhance UNIX operating system performance, because final destruction of the oldest deleted files is done in large batches.

Examiner asserted that Claims 12 and 18 have the same subject matter as of Claim 1 and are essentially rejected for the same reasons as discussed above.

Applicant disagrees with this assessment. For the reasons submitted in the Applicant Initiated Telephone Interview, Wilkerson does not teach a method in a data-processing system that automatically recovered desired data for display within said command line interface, if said desired data is inadvertently deleted utilizing said command line of said command line interface. Wilkerson merely teaches that the user of the system is required to confirm deletion via a secondary panel prior to actual deletion (see col.19, lines 50-56, FIG. 32, claim 1 of Wilkerson).

Nevertheless, Wilkerson does not teach a method in a data processing system including utilizing a command line interface to interact with an operating system of the data-processing system, the command line interface being the command line interface to the operating system in which a user responds to a visual prompt by typing in a command on a specified line and receives a response back from the operating system, as now claimed. Instead, Wilkerson, in all embodiments, discloses using panel interfaces to interact with the Database Recovering software application and data base and not the operating system.

Furthermore, Wilkerson does not teach or suggest a method in a data processing system in which the system tests to determine if said desired data has been deleted from a command line of a command line interface, as now currently claimed.

Instead, Wilkerson teaches that the user (not the data processing system) identifies the corrupted database and enters the database name and estimated time stamp (see for example abstract). Yet furthermore Wilkerson does not disclose a method in a data processing system in which if the system determines the desired data has been deleted from the command line of said command line interface, the desired data is automatically recovered from said memory of said data-processing system for display within said command line interface.

Applicant wishes to draw the Examiner's attention to the fact that claim 1 is directed to a method in data processing system which is capable of automatically recovering desired data deleted from a command line of a command line interface to an operating system. In contrast, the method of Wilkerson relies on the user both identifying and recovering a deleted or corrupt data by operating the panels of a Database Recovery software application.

Furthermore, Applicant submits that the person of ordinary skill in the art starting from Wilkerson and looking to Davis would not arrive at the currently amended claim 1. This is because there is nothing disclosed in Davis to motivate the person of ordinary skill to modify the system of Wilkerson to test to determine if said desired data has been deleted from a command line of a command line interface, as now currently claimed. Furthermore, there is nothing disclosed in

Davis to encourage the person of ordinary skill in the art to adopt in the system of Wilkerson the method of automatically recovering said desired data from said memory of said data-processing system for display within said command line interface if the system determines that the desired data has been deleted from the command line interface, as now claimed.

Instead, the skilled person, looking to Davis would adopt the undelete method taught in Davis which relies on the user setting commands to protect files when the user deletes them and then entering further commands to undelete those files already protected. As acknowledged by the Examiner, Davis discloses a file deleted with the "rm" command, or targeted by the "cp" or "my" commands, is deleted simply by marking its directory record "deleted", while its mode and data blocks are not freed. The "Is" command is adjusted so as not to display files whose directory records are marked as deleted. Examiner asserted that an indexed system of deleted-file records of such deleted files is maintained by the UNIX kernel, such that a record for each deleted file contains a pointer to the file's mode, a pointer to the file's directory mode, and the file's deletion time. Examiner asserted that a deleted file may be undeleted simply by calling an "unrm <file>" command, which uses a kernel system call to undo "deleted" mark in the file's directory record. This procedure restores the file completely, because its mode and data blocks were never freed. The "Is" command again will display the file. The indexed system of deleted-file records, created over time as files are deleted from the UNIX file system, is a necessary tool used by the kernel to efficiently remove the oldest deleted files from the system automatically, without excess system overhead, and without cumbersome system maintenance procedures required from the system administrator (Davis Abstract).

Thus, combining the teaching of Wilkerson and Davis would result in an undelete method in which the user would have to decide whether to protect a file or not at the point when the user requests to delete the file and in which a user would be required to enter further commands to undelete those files already protected by the user. The person of ordinary skill in the art would not arrive at the currently

claimed method in which the data processing tests to determine if said desired data has been deleted from said command line of said command line interface; and if said desired data has been deleted from said command line of said command line interface, automatically recovers said desired data from said memory of said data-processing system for display within said command line interface. As the essential teaching of Davis is a method in which the user sets commands to protect files at the point when the user deletes them and then the user enters further commands to undelete those files already protected, the person of ordinary skill in the art would have no need to modify the system to test for deletion and automatically recover the deleted file in the manner currently claimed.

With regard to claim 12, Applicant submits that the arguments set forth above in support of the patentability of currently amended claim 1 apply equally to currently amended claim 12. As to claims 18-22, these claims have been deleted.

Having regard to the foregoing, Applicant submits that currently amended claims 1 and 12 are patentable over Wilkerson and Davis.

With regard to the remaining current claims 2 to 7 and 13 to 17, Applicant submits that these claims are patentable at least by virtue of their dependency on currently amended claims 1 and 12.

Applicant respectfully requests that the rejection to Claims 1-8, and 12-22 under 35 U.S.C. 103(a) as being unpatentable over Wilkerson in view of Davis be withdrawn.

V. Conclusion

In view of the foregoing discussion, the Applicant has responded to each and every rejection of the Official Action. The Applicant has clarified the structural distinctions of the present invention by amendments herein. The foregoing

discussion and amendments do not present new issues for consideration and no new search is necessitated. Such amendments are supported by the specification and do not constitute new matter. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections and further examination of the present application.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned representative to conduct an interview in an effort to expedite prosecution in connection with the present application.

Respectfully submitted,

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